

\*E-filed 11/7/06\*

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHAEL S. CANLAS, an individual on behalf  
of himself and all similarly situated,

Plaintiff,

v.

ESKANOS & ADLER, P.C., IRWIN J.  
ESKANOS, DONALD R. STEBBINS, JEFF  
DANIEL, and JEROME M. YALON, JR.,  
individuals,

Defendants.

No. C05-00375 JF (HRL)

**ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL  
INTERROGATORIES AND RESPONSE  
TO REQUESTS FOR PRODUCTION OF  
DOCUMENTS**

[Re: Docket No. 40]

On October 3, 2006, this court heard plaintiff's Motion to Compel Interrogatories and Response to Requests for Production of Documents. Defendants opposed the motion. Having considered the papers filed by the parties, as well as the arguments of counsel, this court issues the following order.

**I. BACKGROUND**

This class action was brought pursuant to the Fair Debt Collection Practices Act. The parties filed a joint application for certification of the settlement class and preliminary approval of the class settlement agreement. In their proposed settlement agreement, the parties agree that defendants will pay reasonable attorney's fees and costs to be determined by the court absent an agreement by the party. Judge Fogel granted preliminary approval of the class settlement in

1 June 2006, and a final approval hearing is set for November 2006. The final approval hearing  
2 and attorney's fees are the only remaining issues in this case.

3 Plaintiff expected opposition to his application for attorney's fees and costs and served  
4 on defendants a Second Set of Interrogatories and Requests for Production, seeking to learn the  
5 time and money expended by defendants in defending this litigation. Defendants objected to  
6 this discovery on several grounds and plaintiff filed this motion to compel.

## 7 II. DISCUSSION

8 This is an uncomplicated case. The Supreme Court has announced a general policy that  
9 "[a] request for attorney's fees should not result in a second major litigation." *Hensley v.*  
10 *Eckerhart*, 461 U.S. 424, 437 (1983). By considering reasonable local rates and the nature of  
11 the case, the court will be able to decide plaintiff's fee request without the defense information.  
12 *See Hernandez v. George*, 793 F.2d 264, 268 (10th Cir. 1986) (sustaining a trial judge's  
13 decision not to allow discovery into opposing counsel's fees and hours where these appeared  
14 particularly irrelevant to plaintiff's reasonable fees and hours, and where the district judge had  
15 other information available to him about reasonable local rates); *Martinez v. Schock Transfer &*  
16 *Warehouse Co., Inc.*, 789 F.2d 848, 849 (10th Cir. 1986) ("in uncomplicated cases which take  
17 little trial time the district court normally has a reasonably good idea of the amount of attorney's  
18 fees which will fairly compensate a party for the extent, quality, and success of his lawyer's  
19 work") (citing *Gabaldon v. AAA Alarm Co., Inc.*, No. 81-1016-HB, slip op. at 3 (D.N.M. Dec.  
20 2, 1983).

21 Moreover, the Court is not satisfied that the time defendants' lawyers spent is a useful  
22 measure of the appropriateness of the time plaintiff's attorney spent. Other courts denying  
23 discovery of defense fees have acknowledged the difference in preparation time for each party.  
24 *See Johnson v. Univ. Coll. of Univ. of Ala. in Birmingham*, 706 F.2d 1205, 1208 (11th Cir.  
25 1983) ("[t]he amount of hours that is needed by one side to prepare adequately may differ  
26 substantially from that for opposing counsel"); *Mirabel v. Gen. Motors Acceptance Corp.*, 576  
27 F.2d 729, 731 (7th Cir. 1978) ("a given case may have greater precedential value for one side  
28 than the other").

1 Further, defendants assured the Court that they would not seek to disprove the  
2 credibility of plaintiffs' fee request by pointing to their own hours.

3 **III. ORDER**

4 Based on the foregoing, it is ordered that plaintiff's Motion to Compel Interrogatories  
5 and Response to Requests for Production of Documents is DENIED.

6  
7 Dated: 11/7/06

8 /s/ Howard R. Lloyd  
9 HOWARD R. LLOYD  
10 UNITED STATES MAGISTRATE JUDGE  
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**Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.**